



04 NOV 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

#9

KATTAN MUCHIN ZAVIS ROSENMAN
575 Madison Avenue
New York, New York 10022-2528

In re Application of
ESCH, Uwe et al :
U.S. Application No.: 09/331,705 :
PCT No.: PCT/EP97/05792 :
Int. Filing Date: 21 October 1997 :
Priority Date: 19 December 1996 :
Docket No.: 2698/MEINKE (053735-87549) :
For: HYDRAULIC CIRCUIT FOR A
HYDRAULIC EXCAVATOR :
: DECISION
:

Applicant's "Request for Entry and Consideration of Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b)" filed via facsimile on 25 October 2004 is hereby GRANTED as follows:

Petition Originally Filed 13 August 2004

A review of the above-captioned application reveals that the "Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b)" purportedly filed 13 August 2004 was not located in the file.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants provided a copy of the date-stamped filing receipt for the documents submitted 13 August 2004. The postcard receipt records that a "Request for Reconsideration of Earlier Filed Petition Under 37 CFR 1.137(b)" was received in the USPTO. The filing receipt is stamped "DT02 Rec'd PCT/PTO 13 AUG 2004" across its face. The U.S. application number, and attorney docket number were listed on the postcard receipt.

Accordingly, applicants have provided *prima facie* evidence that the instant petition was originally received by the USPTO on 13 August 2004.

Renewed Petition to Revive Under 37 CFR 1.137(b)

In the response originally filed 13 August 2004, applicant provided the proper reply in the form of a complete declaration in compliance with 37 CFR 1.497(a) and (b).

Applicants previously completed the other requirements of 37 CFR 1.137(b) with the petition filed 09 November 2000.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 21 October 1997, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 25 October 2004.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302